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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,893	05/26/2000	Bruno Jechoux	0054-0208P-SP	9957
7590	04/16/2004		EXAMINER	
Birch Stewart Kolasch & Birch LLP PO Box 747 Falls Church, VA 22040-0747			HA, DAC V	
			ART UNIT	PAPER NUMBER
			2634	
DATE MAILED: 04/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/579,893

Applicant(s)

JECHOUX, BRUNO

Examiner

Dac V. Ha

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 4-6 is/are allowed.
- 6) ☒ Claim(s) 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the amendment filed on 02/04/04. The office action dated 10/06/03 had erroneously left out the rejection of claim 7 (since its claimed subject matter is essentially the same as that of the original claim 1). Therefore, the rejection of claim 7 is provided in this office action, and as a result, this office action will be made Non-Final.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 7, 8** are rejected under 35 U.S.C. 102(e) as being anticipated by Kondo (US 6,178,193).

**Regarding claim 7**, Kondo teaches the following claimed subject matter.

“an evaluating unit for evaluating a power control command ... transceiver”

(Figures 1, all elements; Figure 3, all elements; Col. 1, lines 19-22; Col. 6, lines 49-62; Col. 3, lines 35-37; Col. 4, lines 54-55; Col. 4, line 66 to Col. 5, line 2; Figure 3; Col. 6, lines 60-65);

“ a transmission unit ... wherein the evaluating ... by the unit” (Figures 1, all elements; Figure 3, all elements; Col. 1, lines 19-22; Col. 6, lines 49-62; Figure 1,

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elements 15, 20; Col. 2, lines 61-67; Col. 3, lines 34-39; Col. 4, lines 51-55; Col. 5, line 64 to Col. 6, line 29) in that, the teaching of fading in Kondo is "fast fading" (i.e. Rayleigh fading, Col. 2, line 12); the fading period computing means (Figure 1, element 15) deriving a fading period on basis of the detected signal from the measured power (Figure 1, elements 16, 17, 18); and determining the power control command from the fast fading duration in that, judgment of the transmission power control information is made on basis of the fading period (Col. 6, lines 10-29).

**Regarding claim 8**, Kondo further teaches the claimed subject matter "compares ... said comparison" in Col. 6, lines 10-29; Figure 2, element A7; Figure 5, element "ONE SLOT (TRANSMISSION POWER CONTROL PERIOD)"; Figure 3, from T5 to T8; Col. 8, lines 18-42.

***Allowable Subject Matter***

4. Claims 1, 2, 4-6 are allowed.

5. **Claims 9-12** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dac V. Ha whose telephone number is 703-306-5536. The examiner can normally be reached on 5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dac V. Ha', with a long horizontal stroke extending to the right.

Dac V. Ha  
Examiner  
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